

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Website address www.dir.ca.gov/oshsb**FINAL STATEMENT OF REASONS**

Title 8, Division 1, Chapter 4, Subchapter 4, Article 14,
Sections 1604.24 and 1604.26 of the Construction Safety Orders.

Construction Personnel Hoists (Car Top Operations)**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons.

SUMMARY AND RESPONSE TO ORAL AND WRITTEN COMMENTS**I. Written Comments**

There were no written comments.

II. Oral Comments

There were no oral comments received from the regulated public. Upon considering the proposal at the May 15, 2008, Public Hearing, Board Member Frisch had several comments.

Comment No. 1:

Dr. Frisch asked whether the term "competent authorized operator" was defined in the standard.

Response

The term is not defined. However, Board staff responded that the term "competent authorized person" is comparable to "competent person" which is defined. Additionally, the term "competent authorized person" is consistent with the same term used in Section 1604.26(c) which prescribes who can operate a hoist.

Comment No. 2:

Dr. Frisch then asked whether operation in response to voice command would still be allowed, or whether it was being completely replaced by car top operating devices.

Response

Proposed Section 1604.24(a)(3)(B) requires that the in-car operating devices are not functional during car top operation. Therefore, since operation of the car is under the exclusive control of the car top operator, operation by voice command between a person on the car top and a person inside the car would be a moot issue. However, the proposal does not prohibit persons on the ground or adjacent structure from giving verbal warnings to the car top operator in the event that a potential hazard is observed which the car top operator may have overlooked or could not have foreseen.

Comment No. 3:

Dr. Frisch expressed his impression, based on his reading of the advisory committee minutes, that retrofitting construction personnel hoists to conform to the regulation would not be a problem for employers, and he asked whether the Board should be disinclined to consider variances to this regulation once it has been adopted and goes into effect.

Response

The Division's representative responded that older personnel hoist cars have a pendant control that can be carried to the car top so retrofitting should not be an issue. Additionally, in the unlikely event that a permanent variance would be requested, the Board would need to make a determination that the alternative means, methods, or procedures proposed by the variance Applicant would be equivalent to the protections afforded by the standards.

The Board thanks Dr. Frisch for his comments.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

These standards do not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standards. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.